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14 Attorneys for Defendants
HCC LIFE INSURANCE COMPANY and HCC
15 MEDICAL INSURANCE SERVICES, LLC
(*erroneously sued as* TOKIO MARINE HCC –
16 MEDICAL INSURANCE SERVICES GROUP)

17 IN THE UNITED STATES DISTRICT COURT

18 FOR THE NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION

19 MOHAMMED AZAD and DANIELLE
20 BUCKLEY, on behalf of themselves and all
21 others similarly situated,

22 Plaintiffs,

23 v.

24 TOKIO MARINE HCC – MEDICAL
INSURANCE SERVICES GROUP, HEALTH
INSURANCE INNOVATIONS, INC., HCC
25 LIFE INSURANCE COMPANY, and
26 CONSUMER BENEFITS OF AMERICA,

27 Defendants.
28

Case No.: 4:17-cv-00618-PJH

**DECLARATION OF SUMERA KHAN IN
SUPPORT OF HCC LIFE INSURANCE
COMPANY AND HCC MEDICAL
INSURANCE SERVICES, LLC'S
MOTION TO DISMISS AND THEIR
ALTERNATIVE MOTION TO STRIKE
CLASS ALLEGATIONS**

Date: May 24, 2017
Time: 9:00 a.m.
Cttrm: 3

Complaint Filed: February 7, 2017

1 I, Sumera Khan, hereby say and declare as follows:

2 1. I am an attorney duly admitted to practice law in the state of Texas and am an
3 Associate with the law firm of Norton Rose Fulbright US, LLP, counsel of record for Defendants
4 HCC Life Insurance Company and HCC Medical Insurance Services, LLC (*erroneously sued as*
5 *Tokio Marine HCC – Medical Insurance Services Group*) (“HCC”) in this matter. I have personal
6 knowledge of the matters set forth in this declaration and, if called as a witness, I could and
7 would testify competently thereto.

8 2. Plaintiff Mohammed Azad alleges at paragraph 19 of the Class Action Complaint
9 (“Complaint”) that, in connection with his purchase of his short-term insurance policy on or about
10 December 8, 2015, he was directed to the Insurance Care Direct website, located at
11 www.insurancecaredirect.com.

12 3. Exhibit 1 is a screenshot of the “Short Term Insurance” page, as was linked in
13 December 2015 from that website’s homepage that disclosed that short term policies “are
14 generally for the healthy as pre-existing conditions are not covered.” This screenshot was taken
15 from the Archive.org site (also known as Way Back Machine).

16 4. I contacted Ubiquis, a transcription service, and provided to Ubiquis the audio
17 recording manually filed as Exhibit A to the Declaration of Dan Garavuso and referenced at
18 paragraphs 20 and 21 of the Complaint. Exhibit 2 is a true and correct copy of a transcription
19 Ubiquis prepared of that recording that includes a certificate by the transcriber affirming that the
20 “transcript was prepared using electronic transcription equipment and is a true and accurate
21 record to the best of [her] ability.”

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1 5. Certain of the declarations and exhibits submitted by HCC in support of their
2 motion to dismiss and their alternative motion to strike contain redactions of personal or health
3 information in accordance with Fed. R. Civ. P. 5.2 and the Health Insurance Portability and
4 Accountability Act of 1996 ("HIPAA").

5 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
6 and correct. Executed this 13th day of April, 2017, at Houston, Texas.

7
8 

Sumera Khan

EXHIBIT 1

Exhibit 3

Step One:

INSURANCE care
D I R E C T

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HOME INDIVIDUAL & FAMILY STUDENT **SHORT TERM** MEDICARE DENTAL LIFE AUTO

HEALTH INSURANCE IN 10 MINUTES!
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Or simply call 1 (866) 792-5976
Monday-Friday 6am-9pm EST

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Step Two:

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D I R E C T

Login | 24/7 Live Expert Advice | 1-866-792-5976

HOME INDIVIDUAL & FAMILY STUDENT **SHORT TERM** MEDICARE DENTAL LIFE AUTO

Short Term Insurance

Under certain circumstances, many people in need of health insurance and healthcare would be better suited to apply for a short term(temporary) plan as opposed to a traditional major medical insurance policy. Such persons may include: those who are employed part time or on a temporary basis and whom therefore do not qualify for their company's plan, those between jobs, recent college grads who have been dropped from their parents' or student policies, those eighteen or older who are not students and are not eligible for coverage under their parents' policy, early retirees under 65 not yet eligible for Medicare, and those just out of the military. There are some eligibility requirements such as being under 65, not having been previously denied for health insurance, and height/weight ratios.

Healthcare Over A Shorter Time

Such policies, offered by Insurance Care Direct are generally for the healthy as pre-existing conditions are not covered

Short term insurance policies are usually written for 1-12 months or an exact number of days. These healthcare plans do not cover routine exams or tests and are intended to protect against sickness or injuries which occur during the term of the policy. Doctor visits, prescriptions, physician-ordered diagnostic tests, emergency services, hospitalization, outpatient procedures, and resulting rehabilitation are all generally covered. Optional coverage for dental, vision and accidental medical expenses are sometimes available.

Pages

- [About ICD](#)
- [Affiliate Program](#)
- [Auto Insurance](#)
- [Careers](#)
- [Contact Us](#)
- [Dental Health Insurance](#)
- [Different Types Of Health Insurance Plans](#)
- [Family Health Insurance Plans](#)
- [Frequently Asked Questions](#)
- [Group Health Insurance](#)
- [Health Insurance](#)
- [Home Page](#)
- [Individual & Family Health Insurance](#)
- [Individual Health Insurance](#)
- [Insurance Glossary](#)
- [Insurance Quotes](#)
- [Licensing & Legal](#)
- [Life Insurance](#)
- [Medicare](#)
- [Privacy Policy](#)
- [Resources](#)

EXHIBIT 2

AZAD MOHAMMED 20151208

[START RECORDING

AZAD_MOHOMMED_20151208_HFLEX]

MR. VERNON MONTGOMERY: Hi, my name is Vernon Montgomery, and I am a representative in the verification department. And this verification number is HCCHFVH0012082015. Today's date is December 8, 2015. This call is being recorded for quality assurance. This call will confirm that you do understand that you're purchasing a short-term medical plan, underwritten by HCC Life Insurance Company, and administered by Health Insurance Innovations, which will provide a six-month term of major medical insurance, and that your agent of record is Mr., excuse me, is Ms. Melady Martin, at Insurance Care Direct. Okay?

MR. AZAD: Okay.

MR. MONTGOMERY: Now Mr. Azad, you understand that short-term medical insurance is not considered minimal essential coverage under the Affordable Care Act and therefore, which is also known as Obamacare. And that you may be subject to a tax penalty, correct?

MR. AZAD: Yes.

MR. MONTGOMERY: You understand that the insurance does not pay benefits for the first 12 months of coverage, for conditions for which medical advice,

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care, diagnosis, treatment, consultation, or medication which is recommended by or received from a doctor within five years immediately preceding the coverage effective date. If you have a condition that has manifested itself, or shows signs of symptoms where a reasonable prudent person would seek medical attention, it would be considered pre-existing regardless of whether you have been diagnosed or treated for the condition previously. This limitation may vary by state and does not apply to prescription discount benefit, correct?

MR. AZAD: Correct.

MR. MONTGOMERY: Now please state your full name and address for the recording.

MR. AZAD: Mohammed J. Azad. I'm at 27781 Dickins Ave., Hayward, California, 94544.

MR. MONTGOMERY: Thank you. Now Mr. Azad, these questions are for all proposed insureds. Please respond to each question. I would like to verify your understanding of your insurance purchase. You understand that the insurance program is a short-term medical insurance plan, that coverage is non-renewable, and it will terminate at the end of the coverage period, right?

MR. AZAD: Right.

MR. MONTGOMERY: You understand that if you had a

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prior short-term medical plan with HCC Life Insurance Company, you must qualify under a new application for insurance to get eligible for a new short-term medical plan. You understand that if you are deemed eligible, your new short-term medical plan will have a new effective date, new pre-existing conditions limitation, new deductibles, and new co-insurance limits. You do understand this, correct?

MR. AZAD: Yes.

MR. MONTGOMERY: All righty. You understand, now I do have some medical questions to go over. These medical questions apply to all family members applying for coverage. You do understand that if you falsify or neglect to answer any questions accurately, this will nullify the application and void all benefits of the policy. You do understand this, correct?

MR. AZAD: Yes, yes.

MR. MONTGOMERY: All righty, will any applicant have other health insurance enforced on the policy effective date or be eligible for Medicaid?

MR. AZAD: No.

MR. MONTGOMERY: Are you or any applicant now pregnant, an expectant father, in process of adoption, or undergoing infertility treatment?

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MR. AZAD: No.

MR. MONTGOMERY: Over 300 lbs., if male, or over 250 lbs., if female?

MR. AZAD: No.

MR. MONTGOMERY: Within the last five years, has any applicant been diagnosed, treated, taken medication, experienced signs of symptoms of any of the following: cancer or tumor, stroke, heart disease, including heart attack, chest pain, or had heart surgery?

MR. AZAD: No.

MR. MONTGOMERY: Chronic obstructive pulmonary disease or emphysema, Crohn's disease, liver disorder, degenerated disk disease, or herniation bulge?

MR. AZAD: No.

MR. MONTGOMERY: Rheumatoid arthritis, kidney disorder, diabetes, degenerative joint disease of the knee?

MR. AZAD: No.

MR. MONTGOMERY: Alcohol abuse, chemical dependency, or any neurological disorder?

MR. AZAD: No.

MR. MONTGOMERY: Within the last five years, has any applicant been treated, taken medication, by a physician or medical practitioner, for AIDS, or

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1 tested positive for HIV?

2 MR. AZAD: No.

3 MR. MONTGOMERY: Are you a US citizen, sir?

4 MR. AZAD: Yes.

5 MR. MONTGOMERY: And do you plan to stay in the U.S.
6 legally as long as you have this policy?

7 MR. AZAD: Yes.

8 MR. MONTGOMERY: Your policy includes \$50 co-pays
9 for urgent care center visits for illness or injury,
10 per person. After the \$50 co-payment, the co-
11 insurance will apply. This benefit is not subject
12 to the deductible. Doctor office visits are subject
13 to the deductible and co-insurance. Your plan also
14 includes a per cause deductible of \$2,500.00. Your
15 co-insurance will be 80/20, of \$20,000. Then the
16 insurance company pays 100%, up to \$100,000. You do
17 understand this, correct?

18 MR. AZAD: Yes.

19 MR. MONTGOMERY: All righty. You have requested
20 that your insurance become effective on December 9,
21 2015. Is this correct?

22 MR. AZAD: Yes.

23 MR. MONTGOMERY: You understand that accidents or
24 injuries that occur on or after your effective date
25 are covered on the effective date of your insurance
26 coverage. Injuries that occur prior to your
27

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effective date are excluded. You understand that treatments for sickness are not covered until at least 72 hours after the effective date. The waiting period for sickness may not apply in your state, okay?

MR. AZAD: Yes.

MR. MONTGOMERY: You understand this policy does not pay for benefits or expenses from any of the following: routine medical examinations, such as physicals or immunizations; prescription drugs; obesity; maternity or well baby care; non-medically necessary care; expenses that are not usual and customary. Please refer to your policy for a complete listing of limitations and exclusions, security and privacy disclaimers which can be found by logging into your account at www.hiquote.com. AS part of your membership, you will also receive prescription discounts benefits. Agile Discount Rx will allow you to save an average of 46% with potential savings of up to 75% at more than 60,000 pharmacies nationwide. This card can be used for your entire family, including pets, and it never expires. Discounts are available exclusively through participating pharmacies and providers. The range of the discounts will vary depending on the type of provider and services rendered. This

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1 program does not make payments directly to
2 providers. Members are required to pay for all
3 healthcare services. Pharmacy locator and
4 prescription drug lookup is available at
5 www.myfreerxcard.com. This benefit is not
6 affiliated with HCC Life Insurance Company. Please
7 review your policy and certificate for a list of any
8 exclusions, limitations, and acknowledgements
9 specific to your state, okay?

10 MR. AZAD: Okay.

11 MR. MONTGOMERY: Now, included in the monthly plan
12 cost is the TelaDoc benefits. Now with TelaDoc, you
13 have access to a national network of board-certified
14 physicians who provide diagnostic consultations via
15 telephone 24 hours a day, 365 days a year. There's
16 a one-time registration cost of \$10 required before
17 the first consultation. All future calls are
18 guaranteed within one hour and that consultation is
19 at no cost to you. Every participant is given a
20 username and access to their TelaDoc fulfillment
21 document online. TelaDoc is not a part of the
22 insurance plan, nor is it affiliated with the
23 insurance company. Also included is the value
24 benefits package. You shall receive many benefits
25 such as the Kare 360 Patient Advocacy Program, 24/7
26 nurse line, roadside assistance, Lens Crafter vision
27

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club, Office Depot discounts, UPS discounts, and car rental discounts, correct?

MR. AZAD: Correct.

MR. MONTGOMERY: Also included is the Chiro and Podiatry Care Plus package. It is a discount medical plan that allows you access to the Choose Healthy program, which utilizes a network of more than 28,000 credentialed health care providers, including 20,000 chiropractors. Members receive 25% off normal fees and services. The plan also provides you access to Healthcare Networks of America podiatry services. Member receive savings of 20-50% on the providers' normal fees. Additionally, you will receive discounts on lab tests, diagnostic imaging, vitamins and supplements, and popular brand name pet meds, correct?

MR. AZAD: Correct.

MR. MONTGOMERY: Also included, is the benefits of PEP. PEP is an online personal health and wellness program designed to help members achieve goals regardless of age, let me see here, regardless of age, gender, or level of fitness. PEP offers members access to health calculators for easy tracking and self-assessments, health information from professional staff, daily health tips on nutrition, weight loss, exercise, disease

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1 prevention, as well as the ability to obtain the
2 same co-workouts used by many professional athletes.
3 You understand there is a \$125 one-time cost for PEP
4 services, correct?
5

6 MR. AZAD: Correct.

7 MR. MONTGOMERY: That brings your first month's
8 total to, no, excuse me, you have also agreed to
9 purchase the Cigna Dental access network access plan
10 offered by Cigna Dental and administered by Health
11 Insurance Innovations for a monthly cost of \$23, is
12 this correct?

13 MR. AZAD: Yes.

14 MR. MONTGOMERY: So, you understand that Cigna's
15 Dental network access plan is not dental insurance.
16 It is a discount dental program that provides
17 members access to discounted fees, pursuant to DPPOP
18 schedules negotiated by Cigna Dental with a
19 participating dentist. Members are responsible for
20 paying all charges directly to participating
21 dentists at the time services are rendered. Cigna
22 Dental discounts average 35% nationwide when
23 compared to average area charges. These discounts
24 depend upon procedure codes, geographic location,
25 and the Cigna Dental contracted rate agreed upon
26 with the dentist or dentist specialist, correct?

27 MR. AZAD: Yes.

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MR. MONTGOMERY: You understand that you must visit a participating provider of Cigna Dental network access to receive a discounted fee. You must present a Cigna Dental ID card when visiting a Cigna Dental provider. If not, the discounted rate will not apply, and you may be charged as usual and customary fee. Okay?

MR. AZAD: Okay.

MR. MONTGOMERY: Now, that brings your first month's total to \$336.56, and only \$211.56 for each month after that. This will be billed today through your Visa card, the last four digits of that card number ending in 6645. The expiration date of that card, 06/18, is this correct?

MR. AZAD: Yes.

MR. MONTGOMERY: You understand that your first payment will be processed today. You will see that payment withdrawn within the next 24 hours, and your plan will become effective on December 9, 2015. You also understand that your next month's payment and recurring monthly payments after will be automatically processed from the account on the 9th of each month thereafter for the term of the coverage. You understand that if you cancel your insurance, or if we are unable to take your payment on the billing date, your insurance and benefits

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will be canceled. No representation by an agent, or any other person shall be binding on Health Insurance Innovations, or HCC Life Insurance Company. You do understand this, correct?

MR. AZAD: Yes.

MR. MONTGOMERY: An email will be sent to the email address you provided, giving you the ability to print or save the application for insurance, ID cards, insurance certificates, scheduled benefits, and any other state or company forms. You will also receive within the next seven to ten business days a copy of the welcome letter and ID cards in the mail. Please make sure to read your policy benefits, limitations and exclusions within your ten-day free-look period. You can access your policy online at www.hiquote.com or call customer service if you do not have access to a computer. If you have any questions at any time please call HII Member Services at the number (877)376-5831. You do understand this, correct?

MR. AZAD: Yes.

MR. MONTGOMERY: Now this is a notice of voice consent to electronic transactions, signatures, and the documents. You consent the use to electronic signatures of the documents which would otherwise only be valid if they are in writing. We want to

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confirm that you agree to the completion of your application for the insurance plan and any applicable benefit programs over the telephone. And that the plan benefits, legal notices, and costs of the insurance were reviewed with you. You agree that your voice consent will serve as your signature, correct?

MR. AZAD: Yes.

MR. MONTGOMERY: You understand that Health Insurance Innovations on behalf of its partners will rely on your signature as consent to receive the documents electronically, unless you revoke this consent. You can update your information or revoke this consent at any time by calling HII at the number (877)376-5831, or emailing support@hiiquote.com. If you decide to withdraw your consent, the legal validity and enforceability of electronic transactions and signatures used prior to withdrawal will not be affected. You may request specific documents in paper forms at any time without revoking this consent. You agree to review the application produced by the voice signature carefully to ensure your full understanding of all provisions of the coverage. If you are in agreement with this consent, please say yes.

MR. AZAD: Yes.

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2 MR. MONTGOMERY: Now, just for your protection Mr.
3 Azad, just so I can confirm your understanding and
4 agreement to the terms and conditions of this
5 policy, please verify that by saying yes.

6 MR. AZAD: Yes.

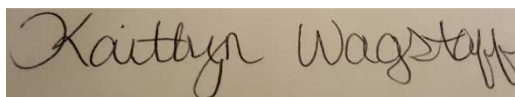
7 MR. MONTGOMERY: Thank you. That does complete this
8 verification.

9 [END RECORDING]

C E R T I F I C A T E

I, Kaitlyn Wagstaff certify that the foregoing transcript of Azad, Mohammed, was prepared using standard electronic transcription equipment and is a true and accurate record to the best of my ability. I further certify that I am not connected by blood, marriage or employment with any of the parties herein nor interested directly or indirectly in the matter transcribed.

Signature

Date _____ March 28, 2017 _____**Ubiquis**

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